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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,410	10/27/2003	Sixten Johansson	3502-1092	9634
<small>465</small> YOUNG & THOMPSON 209 Madison Street Suite 500 ALEXANDRIA, VA 22314			<small>7590</small> EXAMINER TRAN, PHUC H	
			ART UNIT 2416	PAPER NUMBER
			MAIL DATE 10/29/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/695,410

**Applicant(s)**

JOHANSSON, SIXTEN

**Examiner**

PHUC H. TRAN

**Art Unit**

2416

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Shabtay et al. (U.S. Patent No. 7093027 B1).

- With respect to claims 1, 13-15, 18 and 21, Shabtay teaches a system for performing a switch-over in data communication (e.g. fast protection mechanism in Fig. 3) within a data computing device in accordance with protection switching data communication principles (e.g. the system in Fig. 3 for protection data communication), said system comprising said data computing device arranged to operate (e.g. Fig. 3 shows the local stack 51), in a data network according to the protection switching data communication principles, the data computing device comprising: a configurable integrated circuit (e.g. edge switch 20 has block 30 in Fig. 1) of a

unit of said data computing device for signaling a need (e.g. the signal to determine the health of the path see col. 10, lines 56-63) for the switch-over in real time (col. 12, lines 21-22 shows the 50ms switching and col. 2, lines 54-57 show the real-time switching for voice and video) based data communication to a configurable integrated circuit of a protecting pair unit (e.g. Edge switch B in Fig. 1; and Fig. 3) of said unit of said data computing device, wherein said configurable integrated circuit of said protecting pair unit of said data computing device is structured and arranged to perform the switch-over independently of a CPU, when the switch-over is need (e.g. the switch-over is independently of CPU as col. 10, lines 5-15).

- With respect to claim 2, Shabtay teaches wherein the system provides the signaling between the units without a participation of CPU (e.g. the switch 30 implement as a network processor or FPGAs or ASIC to switch the data from user 22 to network port 24 in Fig. 1).

- With respect to claims 3 and 22, Shabtay also teaches wherein the configurable integrated circuit comprises at least one of application-specific integrated circuit (ASIC) and field-programmable gate array (FPGA) (e.g. col. 10, line 11).

- With respect to claim 4, Shabtay further teaches wherein the protection switching comprises a protected LSP based on a working connection and a protecting connection (see col. 8, lines 47-56; col. 9, lines 19-21).

- With respect to claim 5, Shabtay discloses wherein said unit comprises a working unit in accordance with a LSP working connection and the protection pair unit comprises a protection unit in accordance with a LSP protection connection (e.g. the fault link between Edge switch A and B would consider as working unit and Edge C as protection unit in Fig. 3).

- With respect to claim 6, Shabtay teaches wherein the signal comprises a protection message for delivering that the data communication of a receiving unit is at least one of faulty and unfaulty (e.g. col. 10, lines 58-62, col. 11, lines 15-25).

- With respect to claim 7, Shabtay teaches wherein the real time based data communication presumes the switch-over to take place in less than 50 milliseconds from an occurrence of a connection fault (e.g. col. 12, lines 21-22; col. 4, line 51).

- With respect to claim 8, Shabtay also teaches wherein the data communication comprises at least one of Internet Protocol, Ethernet, and MPLS for real time telecommunication services (e.g. col. 4, line 53).

- With respect to claim 9, Shabtay further teaches wherein Multiprotocol Label Switching is contained as a bearer for the data communication (e.g. col. 1, lines 25-45).

- With respect to claim 10, Shabtay teaches wherein Multiprotocol Label Switching operates as a backbone for IP based data communication (e.g. col. 1, lines 26-28).

- With respect to claim 11, Shabtay also teaches wherein the real time based data communication is such that human senses any application based on the real time based data communication substantially immediate (e.g. the fast local protection as sub 50 ms teaches in col. 4, line 51).

- With respect to claim 12, Shabtay teaches wherein the data communication takes place between a source computing entity and a sink computing entity (e.g. the Edge switch in Fig. 3).

- With respect to claim 16, Shabtay teaches before the step of signaling the step of detecting a connection fault in the data communication at the unit (e.g. the Hello message to monitor the health of the path col. 10, lines 58-60).

- With respect to claim 17, Shabtay teaches the step of receiving the need at the protecting pair unit and performing the switch over by activating the data communication on the protecting pair unit (e.g. the Edge switch B switchover to Edge switch C as Fig. 3 shows).

- With respect to claims 19-20, Shabtay discloses the unit comprises a card (e.g. col. 19, line 13).

### ***Response to Amendment***

3. Applicant's arguments filed 7/18/08 have been fully considered but they are not persuasive.

- In response to Applicant's arguments that Shabtay discloses two different data computing devices, however the claims is not discloses devices have to be the same or not. Therefore, the rejection base on Shabtay is overcome the claim's limitation.
- In response to Applicant's arguments that Shabtay is not discloses the switch-over within the data computing devices, however the Fig. 7 in Applicant discloses LSPs. Therefore, Shabtay is still overcome the claim's limitation.

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H. TRAN whose telephone number is (571)272-3172. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHI PHAM can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PHUC H TRAN/

Examiner, Art Unit 2416

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/Chi H Pham/

Supervisory Patent Examiner, Art Unit 2416

10/27/08